

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 9 ADULT AND COMMUNITY CARE PROGRAMS

CHAPTER 1444

NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS

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§17-1444-1 Purpose. The purpose of this chapter is to establish the standards that shall be applied by the department in granting certification of the nurse aide training and competency evaluation programs.

[Eff JUL 12 2013] (Auth: HRS §346-14; 42 C.F.R. §431.10) (Imp: HRS §§346-46; 457A-2, 457A-7, 457A-8)

§17-1444-2 Definitions. As used in this chapter:

"Certified nurse aide training and competency evaluation program" means a nurse aide training and competency evaluation program that meets the department's certification requirements as specified in this chapter.

"Department" means the department of human services.

"Facility-based nurse aide training and competency evaluation program" means a nurse aide training and competency evaluation program that is based in a nursing facility and sponsored primarily by that nursing facility.

"Initial certification of a nurse aide training and competency evaluation program" means the department's application process that is designed to ensure that the training program shall be under the supervision of instructors who meet federal requirements and the training program contains all of the skill requirements mandated by federal and state law.

"Medicare or medicaid nurse aide" shall be as defined in section 457A-1.5, HRS.

"Non-facility based nurse aide training and competency evaluation program" means a nurse aide training and competency evaluation program that is not based in a nursing facility, is not sponsored by a nursing facility, and classes are usually not held in a nursing facility.

"Nurse aide" shall be as defined in section 457A-1.5, HRS.

"Nursing facility" means a skilled nursing facility or intermediate care facility or both, that is licensed and certified by the department of health as meeting the requirements for medicare or medicaid participation.

"On-going certification of a nurse aide training and competency evaluation program" means the review process by which the department determines that a certified nurse aide training and competency evaluation program continues to meet instructor and

skill requirements mandated by federal and state law.

"Registered nurse" means an individual who is licensed as a registered nurse in the State, pursuant to chapter 457, HRS.

"Resident" means an individual who resides in a nursing facility and receives needed professional services directed by a physician toward the maintenance, improvement, or protection of health, or lessening of illness, disability, or pain.

"State-licensed or state-certified health care settings" shall be as defined in section 457A-1.5, HRS.

"Supervised practical training" means training in a laboratory setting designed to simulate the nursing facility environment in which the trainee learns and demonstrates knowledge and proficiency while performing tasks on an individual under the direct supervision of a registered nurse.

"Trainee" means an individual enrolled as a student in a nurse aide training and competency evaluation program to be trained as a nurse aide. [Eff **JUL 1 22013**] (Auth: HRS §346-14; 42 C.F.R. §430.10) (Imp: HRS §346-46; 42 C.F.R. §§483.10, 483.75, 483.151, 483.152, 483.154)

§17-1444-3 Application for initial certification of a nurse aide training and competency evaluation program.

(a) Requests for certification from a facility-based or a non-facility based nurse aide training and competency evaluation program shall be submitted to the department on a departmental application form.

(b) The date of application shall be the date a complete application is received by the department. The application shall be considered complete when it includes all of the requirements as specified in sections 17-1444-4 and 17-1444-5.

(c) The submission of additional information shall be in the format as prescribed by the department.

(d) An incomplete application may be returned to

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the applicant without action.

(e) Prior to rendering a decision on the request for certification, the department shall conduct an on-site review of the nurse aide training and competency evaluation program. [Eff **JUL 1 2 2013**]
(Auth: HRS §346-14; 42 C.F.R. §431.10) (Imp: HRS §346-46; 42 C.F.R. §§440.40, 483.1, 483.151)

§17-1444-4 Curriculum requirements for a nurse aide training and competency evaluation program. (a)

A written copy of the facility-based or non-facility based nurse aide training and competency evaluation program's curriculum as specified in this section shall be included with the nurse aide training and competency evaluation program's application for certification.

(b) The curriculum requirements, at a minimum, shall include the following:

- (1) One hundred hours of training. Thirty hours or more shall be spent in classroom activities of which at least sixteen hours shall be in the following areas prior to any direct contact by trainees with residents:
 - (A) Communication and interpersonal skills;
 - (B) Infection control;
 - (C) Safety and emergency procedures, including Heimlich maneuver;
 - (D) Understanding and promoting resident's independence; and
 - (E) Respecting residents' rights;
 - (2) Basic nursing skills, including recognition of abnormal changes in body functioning and the importance of reporting such changes to a supervisor;
 - (3) Personal care skills;
 - (4) Mental health and social service needs;
 - (5) Care of cognitively impaired residents;
 - (6) Basic restorative services; and
 - (7) Resident's rights.
- (c) Other classroom activities shall include, but shall not be limited to, the following activities:

- (1) Introduction to the health care delivery system in Hawaii with special emphasis on agencies and facilities that care for the aged;
 - (2) Appropriate professional conduct as a nurse aide;
 - (3) General preventive health care with emphasis on controlling the spread of infections;
 - (4) Basic information about human bodily functions;
 - (5) Interpersonal skills including time and stress management, teamwork, developing relationships with residents, and coping with death and dying; and
 - (6) Basic medical terminology.
- (d) Seventy hours of the one hundred hours of training specified in subsection (b) (1) shall consist of supervised practical training. Supervised practical training shall include at a minimum, the following:
- (1) Basic nursing skills that must be taught and directly supervised by a registered nurse for a minimum of thirty hours;
 - (2) Basic personal care skills that must be taught and directly supervised by a licensed practical nurse working under the supervision of a registered nurse for a minimum of thirty hours; and
 - (3) Basic restorative services that must be taught by a licensed or certified therapist working under the supervision of a registered nurse for a minimum of ten hours.
- (e) In a non-facility based nurse aide training and competency evaluation program, the supervised practical training shall be conducted in a laboratory setting designed to simulate the nursing facility environment.
- (f) Trainee activities in a nurse aide training and competency evaluation program are restricted as follows:
- (1) Trainees shall not perform any services to residents for which the trainee has not been

trained and found proficient by the

registered nurse instructor; and

- (2) Trainees providing services to residents shall be under the general supervision of a registered nurse.

(g) Instructional techniques may include, but are not limited to, the following:

- (1) Lectures;
- (2) Written assignments;
- (3) Audiovisual aids; and
- (4) Role playing.
- (h) The nurse aide training and competency

evaluation program shall objectively measure the trainee's performance in classroom activities and in supervised practical training that shall include, but not be limited to, the following:

- (1) Oral and written testing;
- (2) Trainee assessment forms;
- (3) Attendance records, including tardiness and absences;
- (4) Evaluation of the trainee's understanding and ability to perform each skill correctly;
- (5) Evidence that the trainee has achieved competence in all curriculum areas as specified in this section prior to completion of the program. [Eff JUL 1 2 2013] (Auth: HRS §§346-14, 346-46) (Imp: 42 C.F.R. §§483.152, 483.154)

§17-1444-5 Instructor requirements for a nurse aide training and competency evaluation program. (a)

The training of nurse aides in a nurse aide training and competency evaluation program must be performed by or under the general supervision of a registered nurse instructor who possesses a minimum of two years of nursing experience, at least one year of which must have been in the provision of nursing facility services.

(b) The registered nurse instructor shall have completed a course in teaching adults or have

experience in teaching adults or in supervising nurse aides.

(c) In a facility-based nurse aide training and competency evaluation program, the training of nurse aides may be performed under the general supervision of the director of nursing for the facility. The director of nursing shall be prohibited from performing the actual training.

(d) The registered nurse instructor shall ensure that the contents of courses taught by registered nurses, licensed practical nurses, or supplemental personnel other than the registered nurse instructor meet the curriculum requirements as specified in section 17-1444-4.

(e) Supplemental personnel from other health professions may be utilized by the registered nurse instructor to instruct trainees on relevant topics. Supplemental personnel shall have at least one year of experience in their respective fields, including:

- (1) Activities specialists;
 - (2) Dietitians;
 - (3) Fire safety experts;
 - (4) Gerontologists;
 - (5) Licensed practical nurses;
 - (6) Nursing home administrators;
 - (7) Pharmacists;
 - (8) Psychologists;
 - (9) Physical and occupational therapists;
 - (10) Physicians;
 - (11) Registered nurses;
 - (12) Resident rights experts;
 - (13) Sanitarians;
 - (14) Social workers; and
 - (15) Speech, language, and hearing therapists.
- [Eff. JUL 1 2013] (Auth: HRS §§346-14, 346-46) (Imp: 42 C.F.R. §483.152)

§17-1444-6 Disposition of an application for a nurse aide training and competency evaluation program certification. (a) Within ninety days of the date of application, the department shall provide the nurse

aide training and competency evaluation program with a written decision on whether or not the nurse aide training and competency evaluation program has been approved for certification.

(b) Certification shall be granted for a period not to exceed two years. [Eff JUL 12 2013] (Auth: HRS §§346-14, 346-46) (Imp: 42 C.F.R. §483.151)

§17-1444-7 On-going certification of a nurse aide training and competency evaluation program.

(a) Prior to certification expiration, requests from a nurse aide training and competency evaluation program for a renewed certification shall be submitted to the department on a form approved by the department.

(b) On-going certification of a nurse aide training and competency evaluation program shall be granted after the department's review and determination that the nurse aide training and competency evaluation program continues to meet the certification requirements as specified in this chapter. Each on-going certification shall be granted for a period not to exceed two years.

(c) When substantive changes occur with the nurse aide training and competency evaluation program that may affect the nurse aide training and competency evaluation program's ability to comply with certification requirements as specified in this chapter, the nurse aide training and competency evaluation program shall immediately notify the department of such changes. Upon notification of changes to the nurse aide training and competency evaluation program, the department shall review the nurse aide training and competency evaluation program for continued compliance in accordance with provisions specified in this chapter.

(d) Substantive changes may include, but shall not be limited to, changes in:

- (1) Registered nurse instructor personnel;
- (2) Classroom or clinical site locations;
- (3) Required curriculum content; or

(4) Required hours of training.

(e) The department may revoke certification of a nurse aide training and competency evaluation program when the department determines that the nurse aide training and competency evaluation program:

- (1) Does not meet curriculum requirements as specified in section 17-1444-4;
- (2) Does not meet instructor requirements as specified in section 17-1444-5; or
- (3) Has not permitted the department to conduct unannounced on-site visits to review the nurse aide training and competency evaluation program.

(f) The department shall provide written notification to the nurse aide training and competency evaluation program specifying the reason(s) for the revocation of a certification. Upon the effective date of revocation, the nurse aide training and competency evaluation program shall not enroll new trainees. A trainee who has already started a training program with a nurse aide training and competency evaluation program that has had its certification revoked shall be permitted to complete the training program.

(g) A facility-based nurse aide training and competency evaluation program shall not be certified when the facility-based nurse aide training and competency evaluation program in the previous two years:

- (1) Has operated under a waiver issued by the department of health;
 - (2) Has been subject to an extended or partial extended survey conducted by the department of health;
 - (3) Has been assessed a civil money penalty by the department of health of not less than \$5,000; or
 - (4) Has been subject to a remedy to ensure the health and safety of its residents.
- (h) The department shall not, until two years has elapsed since the assessment of the penalty or penalties by the department of health, certify a

facility-based nurse aide training and competency evaluation program that within the two-year period beginning October 1, 1988:

- (1) Had its participation terminated;
- (2) Was subject to a denial of payment;
- (3) Was assessed a civil money penalty of not less than \$5,000 for deficiencies in nursing facility standards;
- (4) Operated under temporary management appointed to oversee the operation of the nursing facility; or
- (5) Pursuant to action taken by the department of health, was closed or had its residents transferred. [Eff JUL 12 2013] (Auth: HRS §§346-14, 346-46) (Imp: 42 C.F.R. §483.151)

§17-1444-8 Appeal. (a) A nurse aide training and competency evaluation program may appeal the department's decision to revoke a nurse aide training and competency evaluation program's certification. When the department revokes a current certification, the department shall mail a written notice via certified mail to the nurse aide training and competency evaluation program's last known address as may be shown on the certification. The written notice shall include:

- (1) The reasons for the action being taken by the department; and
 - (2) A statement explaining the nurse aide training and competency evaluation program's right to appeal the department's decision to the director of the department, in writing, no later than thirty days after the date of the notice of the action.
- (b) Upon receiving a timely written appeal, the director of the department shall give notice of and an opportunity for a hearing before a hearing officer. Based on the evidence presented at the hearing, the hearing officer shall make the final decision for the department as to whether the certification shall be

revoked.

(c) At any hearing provided for by this section, the nurse aide training and competency evaluation program may be represented by counsel and shall have the right to call, examine, and cross-examine witnesses. Evidence may be received even though inadmissible under rules of evidence applicable under court procedures.

(d) The hearing officer's decision shall be in writing, shall contain findings of fact and rulings of law, and shall be mailed to the parties to the proceedings by certified or registered mail to the last known address as shown on the certification.

(e) Filing an appeal shall not stay the department's revocation of a certification. [Eff
JUL 12 2013] (Auth: HRS §§346-14, 346-46) (Imp: 42
C.F.R. §483.151)